United Nations S/2002/1261

Security Council

Distr.: General
18 November 2002

Original: English

Letter dated 14 November 2002 from the Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait addressed to the President of the Security Council

I have the honour to transmit herewith, for the attention of the members of the Council, the report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait pursuant to paragraph 1 of Security Council resolution 1382 (2001) (see annex).

The report was approved by the Committee on 13 November 2002.

(*Signed*) Ole Peter **Kolby**
Chairman
Security Council Committee established by resolution 661 (1990)
concerning the situation between Iraq and Kuwait

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Annex

Report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the arrangements contained in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995)

I. Introduction

1. The present report is submitted to the Security Council pursuant to paragraph 1 of resolution 1382 (2001), which, among other things, reaffirmed the provisions of paragraph 6 of resolution 1360 (2001), in which the Committee was requested, in close consultation with the Secretary-General, to report to the Council prior to the end of the current phase (phase XI) of the Oil-for-Food Programme with regard to the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). By paragraph 1 of resolution 1382 (2001), the Council decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), would remain in force for a new period of 180 days beginning at 0001 hours, Eastern Standard Time, on 1 December 2001.

2. The present report, the 18th of its kind, covers the Committee's major activities with regard to the implementation of the above arrangements during phase XI of the Oil-for-Food Programme, from 1 December 2001 to 29 May 2002.

II. Sale of petroleum and petroleum products

3. The oil overseers continued to advise the Committee on oil-pricing mechanisms, oil contract approvals and amendments, management of revenue objectives and other pertinent questions related to export and monitoring, under Security Council resolutions 986 (1995), 1175 (1998), 1242 (1999) and 1382 (2001). In that respect, the oil overseers have been involved in further discussions in the Committee on the issue of retroactive pricing and excessive premiums. At the request of the Committee, the oil overseers submitted a paper on the influence of retroactive pricing on reduced export levels of Iraqi crude oil (S/AC.25/2002/OIL/1382/OC.21) as well as a discussion paper on possible ways to reduce excessive premiums and maximize oil exports/revenues dated 14 March 2002.

4. As of 10 May 2002, the oil overseers, on behalf of the Committee, had approved 153 oil contracts involving purchasers from 37 countries. The total quantity of oil approved for export under those contracts corresponds to 363.3 million barrels, with an estimated value of 9.7 billion euros. However, the volume of oil lifted during the phase is expected to be substantially lower. The retroactive pricing system, as is the current practice of the Committee, in combination with the continued excessive premium demands of Iraqi crude oil contract holders, led to an average reduction of exports of 500,000 barrels per day, or $1.2 billion in lost revenue. In addition, starting on 8 April 2002, Iraq suspended its crude oil exports for one month. It is estimated that some US$ 1.2 billion in revenue were lost during the month of stoppage of exports. Before the suspension, 125 loadings, totalling

202.8 million barrels worth 4,356 million euros (US$ 3,924 million at the current rate of exchange), were completed. Iraqi crude oil export resumed on 9 May 2002.

5. All contracts submitted used the pricing mechanisms approved by the Committee, on the recommendation of the overseers. Letters of credit opened for each of the liftings were reviewed and confirmed by the overseers to be in accordance with the terms and conditions of the approved contracts. About 33 per cent of the volume lifted was from Ceyhan in Turkey.

6. The overseers have worked with the independent inspection agents (Saybolt Nederland BV) to ensure the effective monitoring of the relevant oil installations and the liftings. In that regard, they have received full cooperation from the Iraqi authorities.

7. Pursuant to paragraph 2 of the procedures of the Committee (S/1996/636), 1,028 national oil purchasers have been nominated from 84 countries that are authorized to communicate directly with the overseers.

8. Pursuant to paragraph 14 of the above-mentioned procedures, the overseers have continued to report weekly on contracts regarding the sale of petroleum originating from Iraq, including the cumulative quantity and approximate value of petroleum authorized for export. Pursuant to the request of the Security Council, a paragraph concerning market premiums paid for Iraqi crude oil has been included in the weekly reports starting on 1 October 2001. As of 10 May 2002, 282 reports had been submitted to the Committee.

III. Humanitarian supplies to Iraq

9. As in previous phases, during phase XI the Committee continued to attach high priority to the work of processing contracts for the supply of humanitarian goods to Iraq.

10. As of 30 April 2002, the Secretariat had received 2,127 applications under phase X for exports of humanitarian supplies to Iraq. Of that total, 116 were judged to be incomplete and non-compliant and 16 were judged to be inactive; 17 are still being processed; 156 were declared null and void; 815 were notified by the Secretariat; and 970 have been circulated to Committee members for action. Of those sent to the Committee, 661 were approved, totalling approximately US$ 2.04 billion; seven were still pending under the "no objection" procedure; and 302, with a total value of US$ 927 million, were placed on hold. During phase XI, from the beginning of phase XI until 30 April 2002, the Secretariat received 722 applications for the export of humanitarian supplies to Iraq. Of that total, 45 were deemed incomplete or non-compliant; 362 were notified by the Secretariat; 193 were circulated to Committee members for action; and 122 are still being processed. Of those sent to the Committee for consideration, 141 were approved, totalling approximately US$ 556 million; four are still pending under the "no objection" procedure; and 48, with a total value of US$ 189 million, have been placed on hold. During the reporting period, 365 applications were released from hold, with a total value of US$ 1.39 billion. Those figures correspond to all the applications (all phases) released from hold during the reporting period. From the beginning of the programme until 30 April 2002, 9,788 applications were approved, with a total value

of US$ 21.76 billion. As of 30 April 2002, 1,439 applications are still on hold, with a total value of US$ 4.36 billion.

11. The work of goods-arrival-confirmation by the United Nations independent inspection agents (Cotecna) has continued according to the established procedures at the four entry points to Iraq at Al-Walid, Trebil, Umm Qasr and Zakho. As in previous phases, the Iraqi authorities have accorded the independent agents full cooperation in their work. From the start of the programme to 30 April 2002, approximately 10,075 consignments of humanitarian supplies from previous phases for the 59 per cent account, with a value of US$ 18.92 billion, have been confirmed as having arrived in Iraq in total or in partial shipments.

12. In accordance with the recommendations contained in the letters of the Secretary-General to the President of the Security Council of 22 October 1999 (S/1999/1086) and 3 October 2000 (S/2000/950), members of the Committee continued reviewing humanitarian contracts placed on hold during the reporting period. Representatives from relevant United Nations agencies operating in Iraq and the Office of the Iraq Programme have briefed members on those occasions.

IV. Matters relating to oil spare parts and equipment for Iraq

13. The Committee has made continuous efforts to expedite the approval of applications for oil spare parts and equipment required for the oil sector. Pursuant to paragraph 18 of resolution 1284 (1999), the Security Council requested the Group of Experts appointed by the Committee to approve contracts for the parts and equipment referred to in paragraph 1 of resolution 1175 (1998). On 18 January 2002, the Committee received from the Office of the Iraq Programme a list of oil spare parts and equipment submitted pursuant to paragraph 18 of resolution 1284 (1999). The list was approved with amendments on 15 April 2002.

14. During the period under review and as of 30 April 2002, the Secretariat had received 672 applications related to the oil sector. Of that total, 10 applications were declared null and void, 172 were deemed incomplete or non-compliant, three were in the inactive category, 233 were notified by the Secretariat, 223 were circulated to Committee members for action and 25 are still being processed.

15. From the beginning of the process to 30 April 2002, the total allocation for oil spare parts and equipment amounted to US$ 4.2 billion. The number of applications received by the Committee for oil spare parts and equipment to Iraq under previous resolutions has reached a total of 5,627, with a value of US$ 4.23 billion. Of those, 197 were judged to be incomplete or non-compliant and 52 were judged to be inactive; 3,754 were circulated to the members of the Committee for their consideration; a total of 358 were declared null and void or cancelled; one was blocked; 27 are under active processing; and a total of 1,238 were approved by the Office of the Iraq Programme. Of the 3,754 applications circulated, 3,079 have been approved, with a total value of US$ 1.98 billion; 667 applications valued at US$ 722 million have been placed on hold; and eight applications are pending under the "no objection" procedure. As of 30 April 2002, partial or complete deliveries of contracts for spare parts and equipment for the oil sector were made up to a value of some US$ 1.34 billion. During the reporting period, 123 such contracts were released from hold, with a total value of US$ 116 million.

16. Members of the Committee have repeatedly reviewed contracts for oil parts and equipment that have been placed on hold and will continue to do so, as necessary, in the future, in accordance with the letters of the Secretary-General to the President of the Security Council (S/1999/1086 and S/2000/950).

V. Other activities

17. During the reporting period, the Committee held eight formal meetings and frequent informal consultations at the expert level to discuss various issues related to the humanitarian situation in Iraq and the implementation of the Oil-for-Food Programme. Much of the Committee's attention has been focused on issues related to holds, alleged sanctions violations and oil-pricing mechanisms.

18. During the reporting period, the Committee completed its series of informal meetings on sectoral activities, with presentations by the United Nations agencies and programmes concerned and discussions on holds in each sector. On 12 December 2001, members heard a briefing on the education sector in Iraq presented by the United Nations Educational, Scientific and Cultural Organization and the Office of the United Nations Humanitarian Coordinator in Iraq. On 20 February 2002, the World Food Programme briefed the Committee on the transport and food handling sector. On 20 March 2002, the Committee was briefed by the World Health Organization, the United Nations Children's Fund and the Office of the Coordinator on the health and nutrition sector. On 22 March 2002, the United States briefed the Committee on the status of holds. In addition, the Office of the Iraq Programme provided several written updates and briefings to the Committee on the issue of holds. Beginning 28 February 2002, the Office of the Iraq Programme began to compile priority lists of holds, specifying the 10 to 15 highest priority items on hold in each sector, for the Committee's attention and action, since the items on the priority lists are regarded as essential for the integrity and operation of critical systems and projects.

19. At its 227th meeting, on 3 December 2001, the Committee considered a proposal made by the Office of the Iraq Programme concerning additional operating procedures for crude oil monitoring mechanisms in Iraq. The proposal was subsequently approved on 14 December 2001. The Committee continued its discussions of the issue of a cash component for the oil sector. In addition, pursuant to paragraph 18 of resolution 1284 (1999), the Committee considered a communication of the Office of the Iraq Programme concerning the appointment of an oil industry expert to approve contracts for the supply of oil industry parts and equipment to Iraq. The matter is still under consideration.

20. The Committee considered a number of communications related to the case of the *Essex* tanker, which allegedly exported Iraqi oil outside the Oil-for-Food Programme. Following its letters of enquiry on the issue addressed to a number of States concerned in November 2001, the Committee, at its 227th meeting, considered a communication by a Dutch company concerning its payment made in that regard to the United Nations 778 escrow account. At its 232nd meeting, on 19 February 2002, the Committee discussed a response from the Bahamas on the outcome of investigations by the Bahamas authorities into the *Essex* case. In both cases, the Committee decided to await the conclusion of the ongoing investigations in all States concerned before proceeding to any follow-up action.

21. Also at its 227th meeting, the Committee considered a letter from Switzerland regarding the company Glencore International AG, which allegedly had intended to divert a shipment of oil from its original destination and sell it in Europe. The Committee decided to seek further information and clarifications from the Swiss authorities. In addition, a report from the Islamic Republic of Iran on the interception of an alleged oil smuggling attempt in its territorial waters was discussed at the Committee's 232nd meeting, on 19 February 2002.

22. The Committee received a briefing by the United Nations Treasurer at its 228th meeting, on 19 December 2001, regarding proceeds from the sale of illegal Iraqi oil cargoes; the Treasurer drew the Committee's attention to the discrepancy between the number of ships seized by the Multinational Interception Force and the number of deposits made to the United Nations 778 Escrow Account, where the proceeds of such oil sales must be deposited.

23. The United States briefed the Committee at its 233rd meeting, on 6 March 2002, on the issue of trucks shipped to Iraq under the Oil-for-Food Programme allegedly having been diverted to Iraq's military. There was no consensus in the Committee on how to respond to the United States brief. Iraq, for its part, addressed a letter to the Chairman of the Committee on 3 April 2002 denying the accusation.

VI. Conclusions

24. The Committee has devoted much time and effort to overcoming the difficulties arising from the implementation of the arrangements contained in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). In the light of Security Council resolution 1409 (2002) of 14 May 2002, which made extensive changes based on the Goods Review List and the revised procedures for the current system, the Committee will continue to work closely with all the parties concerned to ensure the effective discharge of its responsibilities under all relevant Security Council resolutions. As in the past, the Committee wishes to reiterate its appreciation to all parties concerned for their cooperation and contributions.